United Nations A/65/834

General Assembly

Distr.: General
10 May 2011

Original: English

Sixty-fifth session
Agenda item 120
Strengthening of the United Nations system

Letter dated 9 May 2011 from the Permanent Representative of the Bahamas to the United Nations addressed to the Secretary-General

I have the honour to transmit to you, on behalf of the States Members of the United Nations that are members of the Caribbean Community (CARICOM) — Antigua and Barbuda, the Commonwealth of the Bahamas, Barbados, Belize, the Commonwealth of Dominica, Grenada, the Republic of Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, the Republic of Suriname, and the Republic of Trinidad and Tobago — a document entitled "Interpretive declaration by the Bahamas on behalf of CARICOM, 3 May 2011, in connection with General Assembly resolution 65/276, entitled 'Participation of the European Union in the work of the United Nations'" (see annex).

On behalf of the CARICOM member States, I would be grateful if you would circulate the present letter and its annex as a document of the General Assembly, under agenda item 120.

(*Signed*) Paulette **Bethel**
Ambassador
Permanent Representative

Please recycle

Annex to the letter dated 9 May 2011 from the Permanent Representative of the Bahamas to the United Nations addressed to the Secretary-General

Interpretive declaration by the Bahamas on behalf of CARICOM, 3 May 2011, in connection with General Assembly resolution 65/276, entitled "Participation of the European Union in the work of the United Nations"

Mr. President, on behalf of the Caribbean Community (CARICOM) member States, I wish to convey our understanding of how the resolution just adopted should be interpreted.

I. Operative paragraphs

A. Intergovernmental nature of the General Assembly

Operative paragraph 1 of the resolution contains a reaffirmation of the intergovernmental nature of the United Nations General Assembly, and the explicit statement that membership is limited to States that are Members of the United Nations. CARICOM interprets this paragraph as a clear recognition of the priority of Member States over the European Union observer in all activities of the United Nations. CARICOM understands the paragraph as a standing limitation on the European Union observer which prohibits encroachment on the rights and prerogatives of Member States and which constrains the European Union to enjoy only those rights that are specifically and explicitly delineated in this resolution.

B. Ability of other regional organizations to obtain similar status

Operative paragraph 3 is understood by CARICOM as allowing other regional organizations to obtain rights and privileges identical to those set forth in the annex to the resolution. The conferral of identical rights is not dependent on a duplication of the European Union's modalities of integration, nor is it premised on the achievement of any perceived "level" of integration. As long as the members of an organization allow the representatives of that organization to speak on their behalf on any matter, that organization may avail itself of an identical set of rights and privileges. However, no other organization can attempt to claim rights and privileges beyond those enumerated in the annex, as CARICOM understands such rights to be the absolute maximum that a non-State can enjoy in the United Nations.

II. Annex

A. Speaking "among" representatives of major groups

CARICOM notes that the Secretariat's description of this privilege is at variance with our understanding. CARICOM understands the right of the European Union to speak "among representatives of major groups" (annex, para. 1 (a)) to mean that, in regular plenary meetings of the General Assembly, the European Union will be allowed to make interventions prior to individual Member States on the speakers' list, while not taking priority over other major groups that are represented by a State Member of the United Nations. The accepted priority of states over observers will dictate that, in a speakers' list including multiple major groups,

the European Union will not be able to speak prior to any major group represented by a full State Member of the United Nations.

B. Participation in the general debate

The resolution invites the European Union to participate in the general debate of the General Assembly subject to three limitations, namely: (i) the order of precedence; (ii) the practice for participating observers; and (iii) the level of representation. The order of precedence speaks to the fact that Member States enjoy priority over observers when addressing the general debate. The practice for participating observers is a reflection of established practice in the general debate, in which a precedent has been set for the speaking slots typically available to observers, and of the fact that such practice, once established, can be disturbed only in exceptional circumstances. The level of representation is a reflection of the established rules of protocol, whereby heads of State, heads of Government, ministers and heads of delegations are arranged according to their respective protocolary "ranks". CARICOM's interpretation of paragraph 1 (b) of the annex is that the Secretariat must take each of these three factors into account when determining at what time, and on what day, the European Union will be invited to address the general debate. With respect to the level of representation, CARICOM interprets the seventh preambular paragraph as containing an exhaustive list, in order of rank, of the two individuals who may represent the European Union in the general debate, namely, the President of the European Council and the High Representative of the European Union for Foreign Affairs and Security Policy.

C. Presentation of proposals and amendments

Paragraph 1 (d) of the annex limits the European Union to making only oral proposals and amendments. Thus, the European Union cannot make written proposals or amendments under any circumstances. Further, paragraph 1 (d) of the annex proscribes the European Union from putting proposals and amendments to a vote. This limitation is entirely consistent with the fact that the European Union itself lacks the ability to vote and that, as a non-State, it should not be in a position of forcing Member States to conduct votes on any item. CARICOM interprets paragraph 1 (d) of the annex in tandem with rule 78 [120] of the rules of procedure of the General Assembly, which sets forth the procedure for submitting and voting on proposals and amendments. Thus, in order for an oral proposal of the European Union to be voted upon, it must first be adopted and reduced to writing by a Member State, and circulated to all delegations not later than the day preceding the meeting.

D. The right of reply

The unfettered right of reply, as contemplated by rule 73 [115] of the rules of procedure of the General Assembly, is a right enjoyed only by States Members of the United Nations, as the rule states. The right of reply extended to the European Union is more circumscribed. Where decision 34/401 on the rationalization of the procedures and organization of the General Assembly defines the exercise of the right of reply as allowing two interventions per item, the European Union will be allowed only one intervention. Similarly, CARICOM understands that the presiding officer will strictly construe the opportunities for the European Union to exercise

this circumscribed right, and will extend it only in cases that clearly reflect explicitly stated collective positions of the European Union.

E. Rights not enjoyed by the European Union

CARICOM understands and accepts this resolution as containing the full and exhaustive list of rights conferred by the General Assembly on the European Union. Without an enabling resolution, observer entities, particularly non-State observers with no path to full membership in the United Nations, enjoy no rights beyond the ability to attend and observe meetings at the United Nations. Accordingly, such resolutions must be strictly construed, in the light of the General Assembly's status as an intergovernmental body of States with sovereign equality. Unless a right is clearly and explicitly delineated in this resolution, it cannot be enjoyed by the European Union or inferred by any presiding officer. Accordingly, CARICOM interprets this resolution as excluding the following rights, inter alia, of Member States:

1. The right to raise points of order, in accordance with rule 71 [113];

2. The right to move any procedural motion, including, but not limited to, the rights to:

   (a) Move adjournment of debate (rule 74 [116]);

   (b) Move closure of debate (rule 75 [117]);

   (c) Move suspension or adjournment of the meeting (rule 76 [118]);

   (d) Move that parts of a proposal or amendment be voted on separately (rule 89 [129]).

3. The right to challenge any decision of the presiding officer of a meeting.

Thank you, Mr. President.